

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

BARRY RENFOLD COOLEY,

Defendant.

CASE NO. 8:02CR353

ORDER

This matter is before the Court on: the Defendant's motion for leave to amend his § 2255 motion (Filing No. 617); and the government's motion for an extension of time to respond to the Defendant's § 2255 motion and to compel defense counsel to respond to the government's requests for information needed in preparation for its answer or, alternatively, schedule this matter for an evidentiary hearing (Filing No. 620).

Motion to Amend

The motion for leave to amend the § 2255 motion is denied. No new issues are raised in the proposed amended motion (Filing No. 618). The proposed amended motion (Filing No. 618) shall be stricken.

Motion to Extend and to Compel

The government's motion for extension of time is granted. The government shall file its answer on or before December 19, 2007. Defense counsel shall respond to the government's inquiries so that the government can work with defense counsel in discussing each issue raised in the original § 2255 motion or, alternatively, alert the government's attorney that defense counsel declines to respond. If defense counsel chooses to decline to cooperate with the government in responding meaningfully to the allegations in the §

2255 motion, the government shall file a brief “answer” indicating defense counsel’s response and requesting an evidentiary hearing.

IT IS ORDERED:

1. The Defendant’s motion to amend his § 2255 motion (Filing No. 617) is denied;

2. The Clerk shall strike the Defendant’s proposed amended § 2255 motion (Filing No. 618);

3. The government’s motion to extend (Filing No. 620) is granted, and the government shall answer the § 2255 motion on or before December 19, 2007, appropriately as described above;

4. The motion to compel (Filing No. 620) is granted in part and denied in part as follows. Defense counsel shall respond to the government’s inquiries necessary for the government to work with defense counsel either discussing each issue raised in the original § 2255 motion or, alternatively, alert the government’s attorney that defense counsel declines to respond;

5. If the government files an answer discussing the allegations raised, the Defendant may file a response on or before January 21, 2008. If, however, the government notifies the Court that defense counsel has chosen not to assist the government in presenting a meaningful response to the allegations of ineffective assistance of counsel, this matter will be scheduled for an evidentiary hearing without any further briefing by the Defendant;

6. The Clerk is directed to mail a copy of this order to the Defendant at his last known address; and

7. The Clerk is directed to mail a copy of this order to defense counsel at his last known address, return receipt requested.

DATED this 6th day of December, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge